

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION

TODD DARRELL GREATHOUSE, ET AL. §

v. § CIVIL ACTION NO. 9:09cv36

UNITED STATES OF AMERICA, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE  
AND ENTERING FINAL JUDGMENT

The Plaintiffs Todd Greathouse and Robert Smithback, proceeding *pro se*, filed this civil action against the United States of America and the Social Security Administration. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

The Plaintiffs' original complaint argues that: Franklin Roosevelt declared a state of emergency in 1933 which continues to this day, effectively suspending the United States Constitution; the federal government cannot tax citizens who live and work outside of the District of Columbia and places purchased or owned by the Federal Government; the federal income tax is a violation of Article I, Section 2, clause 3 of the Constitution; President Roosevelt declared the American people to be the enemy of the federal government and assigned all Americans "war names" for use in tracking them; such "war names" (consisting of names spelled in all capital letters) represent "fictitious entitles" rather than "natural persons"; the Plaintiffs sought to end their participation in the Social Security program but were told that they could not do so; and the Sixteenth Amendment was not properly ratified. The Plaintiffs also say that because they were born in Texas (Greathouse) and Kansas (Smithback), they are immune from the Social Security tax as

applied to them. They cite as causes of action racketeering, embezzlement, extortion, fraud, invasion of privacy, and enforcement of an *ex post facto* law.

The Defendants have filed a motion to dismiss, saying that the United States and the Social Security Administration have sovereign immunity from suit under RICO and that the Plaintiffs have not exhausted their administrative remedies under the Federal Tort Claims Act. They also say that the Plaintiffs have not alleged any acts amounting to racketeering and that the United States and its agencies cannot be sued under RICO because they cannot be charged with or indicted for crimes.

The Defendants go on to say that: any “state of emergency” which may have been declared in 1933 was ended in 1976 by the National Emergencies Act; Social Security taxes are held in three trust funds and there is no provision for the creation of individual accounts; and the program’s constitutionality has been upheld by the Supreme Court.

Smithback filed a response to the motion saying that: the United States Government is not sovereign because sovereignty resides with the people; federal power only applies to federal property; the Social Security Act is unconstitutional because the country is no longer in the Great Depression and so the Act is no longer needed; Senate Report 93-549 says that the United States is still in a state of emergency; the income tax is unconstitutional according to an 1895 Supreme Court case; and that while the Plaintiffs are sovereign individuals, this sovereignty has been stripped from them for financial gain.

After review of the pleadings, the Magistrate Judge issued a Report on September 3, 2009, recommending that the motion to dismiss be granted. After noting that any prior “state of emergency” was terminated by the National Emergencies Act in 1976, and that the Senate Report cited by the plaintiffs was issued in 1973, the Magistrate Judge stated that the Plaintiff Robert Smithback has incurred three strikes within the meaning of 28 U.S.C. §1915(g) and also has had sanctions imposed on him by the Northern District of Texas. Because Smithback did not pay the filing fee and has not shown that he is in imminent danger of serious physical injury, nor has he

shown that he has satisfied the sanctions, the Magistrate Judge concluded that his portion of the lawsuit could be dismissed on this basis.

Beyond this, the Magistrate Judge stated that the complaint consisted of little more than the rehashing of old arguments which have been repeatedly rejected by every court to consider them, including the Fifth Circuit. Consequently, the Magistrate Judge concluded that the plaintiffs' claims are "patently frivolous" and fail to state a claim upon which relief may be granted.

The Plaintiffs filed objections to the Magistrate Judge's Report on September 21, 2009. In these objections, the Plaintiffs first restate their claims, asserting that Roosevelt suspended the Constitution and declared a state of emergency, using the artificially created "Great Depression" as a coup d'état to usurp authority. They say that: the Social Security tax is "an embezzled tax that redistributes prosperity" which is illegal under the common law and RICO; the defendants cannot "tax Americans for the mere right to exist"; once the Government gave "war names" to everyone, the people were stripped of their sovereignty; the federal statutes cited by the Magistrate Judge cannot override the Constitution; one federal court has agreed that a "nom de guerre" or "war name" exists; and that "the Magistrate Judge claims that 'socialism is legal,' which it is not."

Smithback states that he has tried to have the federal courts enforce his constitutional rights, but they refuse to do so. He says that while the Magistrate Judge listed five cases in which he incurred a strike, two other cases were not mentioned. These two cases are Smithback v. State of Texas, et al., civil action no. 3:05cv578 (N.D.Tex.), and Smithback v. Quarterman, civil action no. 3:06cv1419 (N.D.Tex.). Neither of these cases were dismissed as frivolous and so neither of them counts as a strike for purposes of Section 1915(g).<sup>1</sup>

Turning to the merits, the Plaintiffs say that the Magistrate Judge overlooked a vital part of their claims, which is that they are "sovereign American citizens." Thus, they contend, the

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<sup>1</sup>Smithback says that the Supreme Court has reversed and remanded Smithback v. Quarterman, but there is no record of such a reversal on the Supreme Court's docket. The Court has denied certiorari in Smithback v. Crain, — S.Ct. —, docket no. 09-5536 (October 5, 2009).

government is subordinate to them, not the other way around, and that they “will not, nor will they ever answer to the United States Government.” The Plaintiffs’ objections are without merit.

On September 28, 2009, the Plaintiffs filed an amended complaint. This amended complaint purports to add two new parties, James Phillips and Ronald Turner, both of whom are described as “political prisoners” incarcerated in TDCJ. The amended complaint also seeks to add a number of additional defendants, including the Council on Foreign Relations, the Builderburger Group, the Order of the Illuminati, the Federal Reserve Bank, the Rothchild Bank and the Rothchilds, Lazard Bros Bank, Lehman Bros Bank, J.P. Morgan Chase Bank, David Rockefeller, and the Magistrate Judge to whom the case had been referred.

Neither Phillips nor Turner paid the filing fee or sought leave to proceed *in forma pauperis*, and so they cannot be added as parties to the case. See Ward v. Werner, 61 F.R.D. 639 (M.D.Pa 1974). This circumstance operates to their benefit, because it shields them from receiving a strike under 28 U.S.C. §1915(g).

In the amended complaint, the Plaintiffs first discuss their view of history, centering around the Order of the Illuminati, which they say was originally created to destroy the Roman Catholic Church, but was recreated in 1776 with the goal of spreading communism throughout the world. They state that the Illuminati have infiltrated governments around the world, including the United States Government, and established subsidiaries, including the Freemasons, the Skull and Bones Society of Yale University, and the Builderburger Group.

The Plaintiffs say that the Builderburger Group is “like the Council on Foreign Relations, another of the formal conspiracies dedicated to creating a new world order.” The Builderburgers have secret meetings attended by many of the world’s most influential people, and the Council on Foreign Relations is dedicated to the goal of creating a one-world government.

After again discussing their view of history with regard to the creation of the United States banking system, the Plaintiffs state that “the Constitution of the United States was intentionally written to prevent the actions of the Federal Reserve from becoming a reality.” They discuss various

ways in which bankers commit fraud and state that the United States Government created the Federal Reserve, which in turn created the Great Depression, from which came the Social Security Administration.

The Plaintiffs say that they brought this suit hoping that it would “re-inaugurate their sovereignty” which had been taken by the Defendants. However, the Magistrate Judge recommended that their sovereignty not be recognized and that the case be dismissed for failure to state a claim. They further state that the Magistrate Judge “misled the Court” by referring to the sanctions imposed upon Smithback, without mentioning that the sanctions were “nullified” by the Supreme Court’s decision in Smithback v. Quarterman, cause no. 08-101575. No such case or docket number appears on WESTLAW or in the on-line records of the Supreme Court.

The Plaintiffs state their causes of action against the Magistrate Judge as treason, providing material support to domestic terrorism, violation of *stare decisis*, deprivation of civil rights under color of law, and libel or defamation of character. Against the remaining defendants, the Plaintiffs state their causes of action as treason, engaging in organized crime, racketeering, embezzlement, extortion, constructive fraud, invasion of privacy, domestic terrorism, and conspiracy to commit treason, violate civil rights, engage in organized crime, engage in racketeering activity, engage in embezzlement, extort, commit constructive fraud, and engage in domestic terrorism.

For relief, the Plaintiffs ask that the Court issue a declaratory judgment abolishing the Federal Reserve Act, the Council on Foreign Relations, the Builderburger Group, the Trilateral Commission, the Social Security Administration, and “any other organization used to pursue the illegal activities mentioned in the complaint”; such other declaratory relief as is just; injunctive relief preventing the operations of the Defendants; costs of litigation; fifty million dollars in punitive damages per defendant; and any other relief which may be just.

Even were the amended complaint properly before the Court, it is apparent that the claims raised therein are patently frivolous and fail to state a claim upon which relief may be granted. Many of the allegations raised are non-justiciable and name inchoate defendants such as “The Order of the

Illuminati” who could not possibly be served with process. *See generally* Lloyd-El v. United States, et al., civil action no. 2:05cv705 (W.D.Pa., December 19, 2002) (unpublished) (available on WESTLAW at 2002 WL 33096220) (complaint against the United States and various foreign countries, the Masonic Council of the World, the Federal Reserve, the International Monetary Fund, the Skull and Bones Society, the Illuminati, and others, seeking reparations for the slave trade, dismissed as non-justiciable and for failure to state a claim upon which relief may be granted). Whether or not the amended complaint is considered, therefore, the Plaintiffs’ lawsuit is wholly and entirely frivolous.

The Court has conducted a careful *de novo* review of the pleadings in this cause, the Report of the Magistrate Judge, and the Plaintiffs’ objections thereto. Upon such *de novo* review, the Court has concluded that the Report of the Magistrate Judge is correct and that the Plaintiff’s objections are without merit. It is accordingly

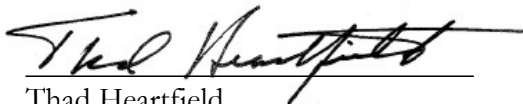
ORDERED that the Plaintiff’s objections are overruled and that the Report of the Magistrate Judge is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the Defendants’ motion to dismiss (docket no. 18) and that the above-styled civil action be and hereby is DISMISSED with prejudice as frivolous and for failure to state a claim upon which relief may be granted. It is further

ORDERED that the *in forma pauperis* status of the Plaintiff Robert Smithback be and hereby is REVOKED pursuant to 28 U.S.C. §1915(g). It is further

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

**SIGNED** this the 20 day of **October, 2009**.

  
Thad Heartfield  
United States District Judge